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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,320	03/18/2004	Edward R. Rhoads	ITL-0308CTUS (P7989C)	5772
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TROP PRUNER & HU, PC 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631				
EXAMINER				
RAYYAN, SUSAN F				
ART UNIT		PAPER NUMBER		
2167				
MAIL DATE		DELIVERY MODE		
08/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/803,320

Applicant(s)

RHOADS ET AL.

Examiner

SUSAN FOSTER RAYYAN

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/3/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-42 and 44-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-42 and 44-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the appeal brief filed on April 3, 2008, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/John R. Cottingham/

Supervisory Patent Examiner, Art Unit 2167

2. Claims 40-42, 44-50 are currently pending.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 40 recites the limitation "said file data" in line 5. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 44 recites the limitation "said data" in line 2. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 45 recites the limitation "the data" in line 2. (unclear if this is a new data) There is insufficient antecedent basis for this limitation in the claim.
7. Claim 47 recites the limitation "said file data" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 40-42, 44-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2005/0038932 issued to Benjamin Andrew Himmel et al (“Himmel”) and US 2003/0221083 issued to Timothy J. Hill et al (“Hill”) and US Patent Number 5,490,260 issued to William D. Miller et al. (“Miller”).

Regarding independent claim 40, Himmel teaches:

a processor ([0076], Figure 3, 300;processor);
a flash memory coupled to said processor (see Figure 1, reference number 201:removable module, figure 1:non-volatile memory), said flash memory to store a primary operating system (see Figure 1, reference number 201:removable module, 294: operating system).

Himmel does not explicitly teach a backup operating for use when the primary operating system fails or needs updating and information for use in locating said file data in said flash memory . Hill does a backup operating for use when the primary operating system fails or needs updating and information for use in locating said file data in said flash memory ([0022], operating system stored in main storage such as flash memory, [0033], replace old operating system image in the flash memory with new operating system image equates to the backup operating system Hill teaches information for use in locating said file data in said flash memory ([0023], as file system driver level).). It would have been obvious to one of ordinary skill in the art at the time the invention was made

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to modify Himmel with a backup operating system and information for use in locating said file data in said flash memory to allow the operating system to be updated or modified as described by Hill in [0005].

Himmel and Hill do not explicitly teach compressed file data. Miller does teach this at column 3, lines 59-63, as compression unit and column 4, lines 15-20, compression mechanism). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Himmel and Hill with compressed file data to increase storage density as described by Miller at column 2, lines 35-41.

Regarding claim 41, same as claim arguments above and Himmel teaches:

wherein the system is a cellular telephone ([0004], computing device such as a mobile telephone).

Regarding claim 42 same as claim arguments above and Miller teaches:

The data stored in a compressed format (See col. 3, lines 58- col. 4, lines 17, at column 7, lines 5-15, compressed and uncompressed data.) It is inherent that it includes basic I/O data.

Regarding claims 44, same as claim arguments above and Miller teaches:

a device driver to decompress said compressed data ... in a format used by the operating system (at column 7, lines 5-15, compressed and uncompressed data).

Regarding claim 45, same as claim arguments above and Hill teaches:

A file system driver ([00233], file system driver level).

Regarding claim 46 same as claim arguments above and Hill teaches:

wherein said flash memory stores an allocation table to indicate the length of entries stored in said flash memory and the number of entries in said allocation table ([0023], as File Allocation Table).

Regarding claim 47, same as claim arguments above and Miller et al.

teaches the claimed invention of wherein said file data stored in compressed form on ... memory is formed into compressed blocks of unequal length is described in(col. 3, lines 27-45, wherein Miller et al. teaches the data blocks of various size to store compressed data).

Regarding claim 48, same as claim arguments above and Hill teaches:

including data for more than one file system stored on said flash memory (figure 3, ref.no. 120: flash memory and state data).

Regarding claim 49, same as claim arguments above and Himmel teaches:

the loader and kernel for an operating system stored on flash memory (see figure 2, ref.no. 201: operating system to include kernel).

Regarding claim 50 , same as claim arguments above and Hill teaches:

a network connection to download additional data ([0019], network environment, [0020], network connections).

Response to Arguments

9. Applicant's arguments with respect to claims 40-42, 44-50 have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan F. Rayyan whose telephone number is 571-272-1675. The examiner can normally be reached on M-F, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John R. Cottingham/
Supervisory Patent Examiner, Art
Unit 2167

Susan Rayyan

August 17, 2008